

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#19

In re PATENT APPLICATION of

Anatoly DRITSCHILO et al.

Application Serial No. 09/382,794

Filed: August 25, 1999

Title: DELIVERY SYSTEM FOR THERAPY COMPRISING HOLLOW SEEDS, PREFERABLY METAL,
AND USE THEREOF

Group Art Unit: 1617

Examiner: H. Nguyen

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OFFICE OF PETITIONS

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**PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR
ALTERNATIVELY REVIVE UNINTENTIONALLY ABANDONED
APPLICATION UNDER 37 C.F.R. 1.137(b) AND PETITION TO MAKE SPECIAL**

Commissioner for Patents
Washington, D.C. 20231

Sir:

At the outset, Applicants respectfully request that the present petition be made special. The Office in hereby authorized to charge the \$130 fee for Petition to Make Special to Deposit Account No. 03-3975. As indicated below, Applicants also provide herein authorization to charge Deposit Account No. 03-3975.

Applicants request that the petition to be made special to expedite prosecution of this application and minimize any further delays as the circumstances leading to the application have becoming abandoned where not under the control Applicants or their representatives. Based on inquiring and belief, Applicants' representatives have been unable to ascertain whether the outstanding Notice of Non Compliant Amendment apparently issued by the Office January 4, 2002 was actually mailed by the Office and if so to what address. As explained below Applicants' representatives only learned of the outstanding Notice through facsimile from the Examiner after the application had (or was about to) technically become abandoned.

Applicants filed the above-identified application in the U.S. Patent and Trademark Office on August 25, 1999.

The subject application has apparently become abandoned for Applicant's failure to respond to a Notice of Non-Compliant Amendment allegedly mailed on January 14, 2002. As stated in the affidavit by Margaret Jackson the Notice was never received at the address of

*Petition to Withdraw Holding of Abandonment or
Alternatively Revive Unintentionally Abandoned
Application Under 37 C.F.R. 1.137(b)*

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record for this application. In fact, and as stated in the affidavit by Samir Elamrani, the undersigned Applicant's representative only learned that a Notice of Non-Compliant Amendment was issued by the Office during a telephone call to the Examiner placed by the undersigned to inquire about the status of the application. Also as indicated by the Affidavit of Margaret Jackson and supporting docket/mail evidence the Notice was never received at the office of the undersigned Applicants' representative.

Applicant's note that the last paper received in communication with this application was the Official Action mailed on October 4, 2001. That Action was mailed to the undersigned present address which was the address of record for this application since August 20, 2001. A reply to the Official Action of October 4, 2001 was filed by the undersigned on December 18, 2001. In July of 2002, and after over six months from the date of the Reply, the undersigned placed a phone call to the Examiner to inquire about the status of the application. During the call Examiner Nguyen informed the undersigned that a Notice of Non-Compliant Amendment apparently was mailed by the Office on January 14, 2002. However, after numerous phone calls placed by the undersigned to Examiner Nguyen, the Examiner indicated that she was unable to ascertain the address to which the Notice was sent as no coversheet could be located in the file. In a subsequent voice message left on the undersigned's voice mail, on September 17, 2002, Examiner Nguyen indicated that the application has become abandoned for failure to respond to the Notice.

Applicants hereby petition that the Office withdraw abandonment of the application as the Notice was never received at the office of Applicants representative. Moreover, it appears that the file for this application at the Office does not contain a paper showing if and to what address the Notice was actually sent.

Should the Office decide not to grant the Applicants' petition to withdraw abandonment, Applicants hereby petition for the revival of the above-identified Application for unintentional abandonment. Attached hereto is a Response to the Notice of Non-Compliant Amendment as well as Petition for Extension of Time and together with our authorization to charge the extension fee with respect to the above-identified application to Pillsbury's Deposit Account 03-3975, should the Office deny Applicants' petition to

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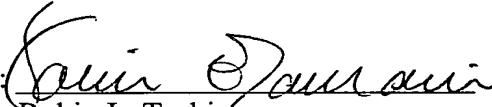
withdraw abandonment. Applicants respectfully request that this application be revived so that any remaining matters may be resolved and the application be placed into condition for allowance.

If the Commissioner should require any further information, or wish to discuss the facts or rules presented herein, please contact the undersigned at the telephone number set forth below.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Date: October 4, 2002

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